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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,764	09/29/2003	Gang Sun	18062G-002910US	4459

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EXAMINER

EINSMANN, MARGARET V

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 01/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/674,764

Applicant(s)

SUN ET AL.

Examiner

Margaret Einsmann

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4, 7, 9, 12, 13, 15-17, 21-29, 31 is/are allowed.
- 6) ☒ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) 5, 6, 8, 10, 11, 14, 18-20 and 30 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed April 19, 2004 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered. Additionally it contains an excessive number of references. The examiner has perused several of the references and does not find them relevant to the claimed subject matter. Applicant is requested to supply a statement of relevance concerning the references which applicant considers most relevant to the claimed subject matter.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4,7,9,12,13,15-17,21-29 and 31 rejected under 35 U.S.C. 102(e) as being anticipated by Elrod, US 2003/0159200.

Elrod describes a fibrous composition comprising a fiber having a peroxycarboxylic acid functional group covalently attached to the fiber as claimed in claim 1. The preferred peroxycarboxylic acid group is peroxyacrylic acid. See figure [0020]. The fiber is may be selected from natural fibers including cotton, linen gauze and other fibers including polyester and nylon [0010] and may be used in garments, surgical drapes, bedding and towels [0009]. This disclosure reads on the limitation of claims 1-4, 7. Regarding the limitation of claims 9 and 12, the fabric contains a plurality of acid groups. [0020] . In example 1 beginning on page 2 [0017], Elrod describes the synthesis of antimicrobial peracid fabric by ozone-induced grafting. Cotton fiber is grafted with acrylic acid, applicant's claimed monocarboxylic acid, and the acrylic acid is reacted with hydrogen peroxide solution in the presence of sulfuric acid (8mL in 44.8 mL of solution), applicant's claimed catalyst. This is the process described in applicant's claims 13, 15-17, 21-29. Regarding the limitation of claim 31, Elrod states at page 1 [0007] that the, "The peracid is formed by, and may be regenerated by, exposing the carboxylic acid of the fabric to mineral acid and hydrogen peroxide."

Allowable Subject Matter

Claims 5,6,8,10-11,14,18-20 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Elrod does not teach formation of a peroxycarboxylic acid from any other acid than acrylic acid. There is no suggestion to use a dicarboxylic acid, a tricarboxylic acid or a tetracarboxylic acid. Elrod does not suggest the use of a polyvinyl alcohol fiber, a

Art Unit: 1751

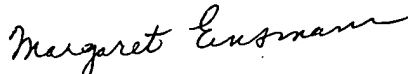
chitin of a chitosan fiber material; he also does not disclose the use of a basic catalyst of an ion-exchange resin as a catalyst.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret Einsmann whose telephone number is 571-272-1314. The examiner can normally be reached on 7:00 AM -4:30 PM M-Th and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

12/28/04


Margaret Einsmann
Primary Examiner
Art Unit 1751